

BEFORE THE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:	ABOUNDING GRACE CHURCH)	
	Map 27J, Parcel 3)	Williamson County
	Claim of exemption)	

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the property owner from the initial decision and order of the administrative judge who recommended the property tax exemption for the subject property be only partially approved. The appeal was heard on December 15, 2005 before Commission members Stokes (presiding), Wade and White¹. Mr. David Hooper, an attorney, represented the property owner. The State Board exemption designee responsible for initial determinations in exemption cases, Ms. Sabrina Williams, also participated at the hearing.

Findings of fact and conclusions of law

The findings of fact of the administrative judge are not disputed, only his conclusion that under the facts of the case, the church leases part of the property for rent in excess of \$1 and a "reasonable service and maintenance fee" as the phrase is used in Tenn. Code Ann. §67-5-212 (a)(1)(A). The property is indeed subject to a lease concluded as part of a 2002 deal in which the church bought the property from Benton Hall School, an exempt nonprofit school, and leased back to the school a portion of the property already in use by the school. The church paid the financially strapped school \$750,000 in cash and gave the school a promissory note for the \$250,000 balance of the purchase price. Not coincidentally, the rent payments net the church only about \$270 a month after deducting its note payment. The lease runs four years from March of 2002, subject to renewal, although at the end of the four years the note will be satisfied if payments continue during that time.

The church argues that the substance of this transaction, a modest net "rent" yielding less than property expenses associated with the school's use of the property, should bring it within the terms of the exemption statute, but the administrative judge would have none of it:

[T]he determination of whether a lease comports with the "dollar per year" rent restriction . . . must be guided by the express terms of the agreement – not by the extent to which the owning institution may have voluntarily exceeded its obligations (or foregone its rights) under the contract.

¹ Mr. Wade sat as an alternate for an absent member pursuant to Tenn. Code Ann. §4-5-302.

Initial decision, p. 4. The Commission finds, however, that the liberal construction traditionally afforded these exemptions in Tennessee does indeed compel us to focus on substance, and the substance of the transaction as explained in the testimony before the Commission leads us to the conclusion urged by the church: this was a cash deal with what appears to be substantial rent included to satisfy the school's attorney that the school's occupancy was supported by a consideration. The net rent of \$270 monthly does not exceed the limits in the statute in view of the proof concerning reasonable expenses of service and maintenance.

Officials of the church testified that the rent will be explicitly modified when the note is paid off in 2006, and limited to an amount no more than the reasonable expenses associated with the school's occupancy. Clearly if the school continues to pay \$6,000 monthly rent with no offset from note payments, the rented property will no longer qualify for exemption either within the substance or form of this transaction.

ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is modified to recognize full exemption, effective August 8, 2002. Counsel for the church will provide an executed copy or summary of any verbal or written extension of the lease at issue in this appeal, by July 1, 2006, and the church will thereafter notify the Board and the assessor of any change in the ownership or use or terms of use of the property that might affect its exempt status. This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.

Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

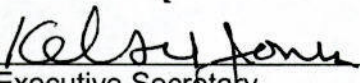
Requests for stay of effectiveness will not be accepted.

DATED: Apr. 11, 2006

Order HS

Presiding member

ATTEST:


Executive Secretary

cc: Mr. David Hooper, Esq.
Mr. Dennis Anglin, Assessor